

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

February 25, 2004

**I.
PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Nitafan, Lalwani, Galang, Garcia, Giordano, Mohsin and Sandhu
Absent: None
Staff: Carrington, Faubion, Heyden, Lindsay, Pereira and Rodriguez

**III.
PUBLIC FORUM**

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Rob Means, 1421 Yellowstone, stated that there are a lot of things in Milpitas to like. He noted that a customer of his, who lives in Newark, frequents the inexpensive theaters at the Town Center and was concerned that the City might be building a grocery store there.

Minjhing Hsieh, 1320 Crossgates, San Jose, on Behalf of Tzu Chi Foundation, thanked the City planning department for their work to have Tzu Chi foundation project locate at McCarthy Boulevard. Mr. Hsieh noted that Tzu Chi foundation is a philanthropic organization that has been located in the City since 1998. Recently the foundation wanted to expand its community services to a larger scale in a research and development building located in an industrial area, and applied for a CUP to improve a variety of services and among those services were a preschool and daycare center.

Mr. Hsieh explained that the organization did its best to seek the approval of the City; nevertheless, after reviewing the City's recommendation and consulting with environmental consultants and experts, Tzu Chi foundation determined that children's safety was a very important concern for the City and the foundation. On the other hand, preschool and childcare is a very integral part of Tzu Chi's future and without it, Tzu Chi cannot achieve their goal. Based on that and all the consultation and data, it is not a very wise decision to have a preschool and childcare in the industrial district therefore, Tzu Chi has withdrawn the CUP application and also the purchase deal with the childcare. Mr. Hsieh expressed his sincere appreciation with the City and with the planning department for all their effort and looks forward to working with the City in the future that would better serve the spirit of the foundation.

Chair Nitafan noted that the Commission respects Tzu Chi's decision and wish them luck in future projects.

William Connor, 1515 N. Milpitas Boulevard, noted that he attended the BART meeting and the subject was magnetic levitation. He noted that magnetic levitation has been passed through the House and the Senate.

Regarding Agenda Item No. 3 (Site and Architecture Review (SA2003-12), Use Permit's No. UP2002-42, UP2003-57, UP2003-58, UP2004-1, AND UP2004-3), Mr. Connor noted that the City should try and buy this piece of property from Shapell since it would be a definite asset for the future and suggested delaying these items as long as possible.

IV.
APPROVAL OF MINUTES
February 11, 2004

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of February 11, 2004.

Motion to approve the minutes as submitted.

M/S: Giordano/Lalwani

AYES: 7

NOES: 0

V.
ANNOUNCEMENTS

James Lindsay, Acting Planning Manager, noted that if anyone from the audience is attending the meeting for Agenda Item No. 3 (Site and Architecture Review (SA2003-12), Use Permit's No. UP2002-42, UP2003-57, UP2003-58, UP2004-1, AND UP2004-3), town center remodel project, it will not be discussed until the March 10th meeting.

Vice Chair Lalwani reminded that the Milpitas Chamber of Commerce is hosting a crab feed at the Napredak Hall at 5:30 p.m. on February 27th and everyone is invited.

Commissioner Giordano noted that she attended the Silicon Valley manufacturing group housing luncheon on February 18th at West Valley college. She explained that it was very informative and the essence of the discussion was centered on Oakland's Fruitvale transit village district around BART. The project began in the early 1990's and was developed over the next 13 years. Mixed uses were allowed and higher residential densities of 70 units of dwelling per acre, which reduced the parking by ½ space per unit. Commissioner Giordano encouraged the Commission to attend the luncheons that are held four times a year and asked staff to follow up and make sure that all of the Planning Commissioners are registered with the Silicon Valley manufacturing groups distribution list.

Chair Nitafan announced that the 2004 Milpitas Citizen of the year application is still open and the new deadline is February 27th at midnight. Interested persons can request an application from Chair Nitafan at (408) 934-9443 or (408) 307-9372.

VI.
APPROVAL OF
AGENDA

Chair Nitafan called for approval of the agenda.

Mr. Lindsay advised that no action is needed for Agenda Item No. 1 (Use Permit No. UP2003-56, 'S' Zone Approval Amendment No. SA2004-5 and Environmental Impact Assessment No. EA2004-2) since the application has been withdrawn.

Motion to approve the agenda as amended.

M/S: Lalwani/Giordano

AYES: 7

NOES: 0

**VII.
CONSENT CALENDAR
Item Nos. 3, 4, 5, 6 and 7.**

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

There were no changes from staff.

Vice Chair Lalwani requested that Agenda Item No. 1 be added to the consent calendar.

Mr. Lindsay noted that no action is required on Agenda Item No. 1 so it does not need to be added to the consent calendar.

Chair Nitafan opened the public hearing on Consent Item Nos. 3, 4 and 5.

There were no speakers from the audience.

**Keep the Public hearing
open and continue Consent
Item Nos. 3, 4 and 5 to the
March 10, 2004 meeting.**

Motion to continue Consent Item Nos. 3, 4 and 5 to the March 10, 2004 meeting.

M/S: Giordano/Lalwani

AYES: 7

NOES: 0

Motion to approve the consent calendar on Consent Item Nos. 3, 4, 5, 6 and 7.

***3 SITE AND ARCHITECTURE REVIEW (SA2003-12) USE PERMIT'S NO. UP2002-42, UP2003-57, UP2003-58, UP2004-1, AND UP2004-3** *(Continued from February 11, 2004)*: A request to demolish and redevelop a part of the Town Center shopping center, which would include a new 54,000 square foot Safeway supermarket with the sale of all types of alcoholic beverages, a 32-seat Starbucks café within Safeway, and three (3) new freestanding signs within the shopping center. (APN: 028-12-004, 006, 013, 014, 016 & 019). Applicant: Shapell Industries of Northern California. Project Planner: Troy Fujimoto, (408) 586-3287 (PJ# 3153) *(Recommendation: Continue to March 10, 2004)*

***4 USE PERMIT NO. UP2002-42 AND SITE AND ARCHITECTURE REVIEW (SA2003-13)** *(Continued from February 11, 2004)*: A request to construct 65 townhouses at the rear of the Town Center shopping center (APN: 028-12-006 & 019). Applicant: Shapell Industries of Northern California. Project Planner: Troy Fujimoto, (408) 586-3287 (PJ# 3153) *(Recommendation: Continue to March 10, 2004)*

***5 SIGN ORDINANCE AMENDMENT NO. 124.26 (ZT2003-5)** *(Continued from February 11, 2004)*: A request to amend the sign ordinance to increase the number of freestanding signs allowed in the Town Center District. Applicant: Shapell Industries of Northern California. Project Planner: Troy Fujimoto, (408) 586-3287. (PJ# 3153) *(Recommendation: Continue to March 10, 2004)*

***6 HOLIDAY PARKING REVIEW (AD2004-3) FOR USE PERMIT (NO. 1166) AMENDMENT NO. UA2002-4**: Holiday parking review for the Great Mall Shopping Center, as part of the use permit for a parking modification (APN: 086-24-055). Applicant: Milpitas Mills Limited Partnership. Project Planner: Staci Pereira, (408) 586-3278. *(Recommendation: Note receipt and file)*

***7 “S” ZONE APPROVAL AMENDMENT NO. SA2004-8:** A request for approval to utilize side yards as part of the required rear yard open space for a property located at 466 Donahe Drive within the R1-6 Zoning District. (APN: 028-14-050). Applicant: Frank Ho. Project Planner: Cindy Hom, (408) 586-3284 (*Recommendation: Approval with Conditions*)

M/S: Giordano/Lalwani

AYES: 7

NOES: 0

VIII. PUBLIC HEARING

ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2004-1 AND ZONE TEXT AMENDMENT NO. ZT2004-1 (Ordinance No. 38.763) (Staff Contact: Staci Pereira, 586-3278)

Staci Pereira, Assistant Planner, presented Environmental Impact Assessment No. EA2004-1 and Zone Text Amendment No. ZT2004-1 (Ordinance No. 38.763). Ms. Pereira explained that the City has prepared a Negative Declaration for Ordinance No. 38.763, which proposes to modify the following provisions as they relate to single-family dwellings:

- ☐ Remove the maximum number of unrelated persons that can occupy a dwelling
- ☐ Require all occupants to function as a single housekeeping unit
- ☐ Provide a definition for single housekeeping unit
- ☐ Require two parking spaces to be enclosed within the garage and permanently maintained
- ☐ Expand the definition of a kitchen
- ☐ Modify the location of the legal notice postings from the project vicinity to the project site

Ms. Pereira also noted the following addition to the proposed changes:

*53.23-1(2) Parking Schedule for Residential Land Uses
Boarding houses, dormitories, sororities and fraternities – 1 sp/room.*

Based upon staff's findings and recommendations noted in the staff report, Ms. Pereira recommended the Commission recommend to the Council adoption of the Negative Declaration EA2004-1 and adoption of Ordinance No. 38.763 for amendments to the Zoning Ordinance Text ZT2004-1.

Commissioner Garcia thanked staff for what the Community Advisory Commission (CAC) found to be tough issues such as 1) Complaints about crowded houses in neighborhoods 2) Complaints about parking in neighborhoods and 3) Concerns about street sweeping since people do not move their cars, the streets are not kept up which leaves to flooding issues. Commissioner Garcia asked staff how the definition of family would be enforced.

Ms. Pereira explained that the definition of family requires unrelated persons function as a single housekeeping unit. When the code enforcement division visits homes, staff will notice if the home it is not operating as a single housekeeping unit. Code enforcement will notice if there are locked internal doors, compartmentalized kitchens or bathroom and will enforce the regulations and consider it a renting of rooms without internal access.

Commissioner Garcia asked if a code enforcer will be entering the house and Ms. Pereira responded "Yes" and noted that code enforcement receives calls from neighbors in the area who report overcrowding.

Commissioner Garcia asked what will the topic be for the next phase of ordinance amendments. Ms. Pereira explained that staff broke up phase 3 into Phase 3a and Phase 3b. The Commission is reviewing Phase 3a tonight because of the importance of the issues and phase 3b, which has about 40 to 50 amendments, will be brought to the Commission in the next three to four months.

Commissioner Sandhu noted that there were no comments for the environmental document and asked staff if the project was noticed to the public. Ms. Pereira noted that the environmental document was recorded and posted with the county and staff did not receive any comments. The project was also advertised in the *The Milpitas Post* as a public hearing; however, each individual resident in the city was not notified.

Commissioner Sandhu asked if the definition of family defines how many people could live in a home and Ms. Pereira noted that because of state and federal law, staff cannot limit the number of unrelated people that occupy a dwelling unit. There could be several people living in a home, however, staff felt that the recommended amendments to the ordinance will assist staff in curbing the overcrowding situation by requiring additional parking spaces and by requiring residents to function more like a traditional family as well as prohibiting full garage conversions. Staff had to change the definition of family to be consistent with other laws and also to strengthen the existing ordinance in order to give regulatory purview within the single-family residential area.

Commissioner Giordano noted that this was a lot of information to review and in response to Commissioner Garcia, Commissioner Giordano knew that these issues had been brought up at the CAC town hall meeting and asked if staff had put any thought to having the CAC review the amendments before coming to the Commission.

Ms. Pereira responded that the CAC will be reviewing the amendments at the March 3rd meeting and explained that the CAC was supposed to review the amendments at the last meeting but didn't get to it.

Commissioner Giordano asked if the Commission will be making the adoption tonight or should wait for CAC's input. Ms. Pereira noted that the Commission will be making a recommendation to the City Council and any input from the CAC will also be considered and forwarded to the City Council.

Commissioner Giordano was concerned that no one from the public was addressing the proposed ordinance amendments and asked where was the ordinance advertised. Ms. Pereira responded that staff did the required advertising in the paper, just as any public hearing, and did not advertise to each individual resident within the city.

Tambri Heyden, Acting Planning and Neighborhood Service Director, noted that in conjunction with the CAC, staff has done additional advertising. She noted the amendments were displayed in *The Milpitas Post* for the CAC meeting on February 18th and given the items on the agenda, the CAC decided to defer the item to the March 3rd meeting.

Ms. Heyden commented that it is the Commission's benefit to have Commissioner Garcia now, because he is a helpful link from the work that was done by the CAC in getting the phase 3a amendments addressed. The CAC has a subcommittee working on these issues contributing to the problem such as street sweeping and parking. The whole focus of the October town hall meeting was just this issue, and staff did out of the ordinary publicity for the town hall meeting and people still didn't get out.

Commissioner Giordano noted that she is in favor of tabling this item to a follow up meeting until it has been passed through the CAC, and would like to see staff's homework in terms of what other cities are doing.

Ms. Pereira explained that staff had input from city attorneys as well as research gathered from other cities and noted that staff did not include the information.

Commissioner Giordano noted that staff is limiting secondary family units to one bedroom and one kitchen and noted that the size of the valley floor is 475 square feet and the hillside is 1,200 square feet. She asked staff if secondary family units have always been 1 bedroom.

Ms. Pereira explained that staff is not making any changes to secondary family units. The change was made and adopted with the past zoning ordinance amendments that came to the Commission less than a year ago and has always been one bedroom and one kitchen.

Commissioner Giordano didn't understand why a 2 bedroom wouldn't be allowed and asked staff to bring back information to the next meeting.

Commissioner Giordano asked if a resident has a 4 bedroom home and wants to rent out 3 out of the 4 bedrooms, is that considered a boarding house. Ms. Pereira explained that if the resident rents out 3 of the 4 bedrooms and functions as a family, or as a single housekeeping unit, there are no limits. The limit is to function as a single housekeeping unit and by that, there are certain regulations that will assist in preventing overcrowding.

Commissioner Giordano asked what would the regulations be if a resident has a 3-bedroom house and wants to rent out 2 rooms. Ms. Pereira noted that the City does not have the ability to regulate the number of rooms or the number of people that occupy a single family residence, that is state and federal law, so as long as they are operating as a single housekeeping unit.

Commissioner Giordano mentioned that things are not clear and is not sure how staff moved from point A to point B. Regarding garage conversions, she asked staff where they came up with the idea that only half of a garage could be converted.

Ms. Heyden noted that Commissioner Giordano is making a good point and noted that the issues were studied with other cities and that staff could come back with more research from what other cities are doing.

Commissioner Giordano noted that if you have 2 parking spaces onsite and 1 parking space must be covered, that is a huge deviation from where the City is now. She asked where is the rationale that if a garage is converted and you have a space left in the driveway and you have uncovered parking. Ms. Pereira noted that staff researched five other local cities, and found that 4 out of the 5 require both parking spaces for single family dwellings to be enclosed or covered, thereby preventing garage conversions altogether. The City of Milpitas was one of the only cities in the immediate area that permits garage conversions, so when looking at the other cities, staff did an analysis and thought that they could require both parking spaces to be enclosed or covered, however, that existing homes would be impacted by not meeting the dimension requirements and that would render them all non conforming, so staff thought perhaps requiring only one of the parking spaces to be covered would prevent the entire garage of being converted, but at the same token, not rendering a lot of homes non conforming.

Ms. Lindsay added that, of the documents that were provided, the city attorney's memo describes the bulk of the changes. The information presented this evening has supplemented that. Staff surveyed what other cities were doing about garage conversions and determined what could work well within Milpitas and came up with the one parking space that must be covered. In looking at the type of garage conversion applications that come across our desks, it would not allow a garage to be used as a rental opportunity.

Commissioner Giordano asked if there is a time constraint, and suggested postponing this item to the March 24th meeting.

Chair Nitafan commented that he is concerned that the CAC would review the item after the Planning Commission. He noted that the Planning Commission is the sole approving body of any items that go before City Council. He asked Attorney Faubion to clarify the procedure process.

Attorney Kit Faubion explained that planning and zoning law requires that the Planning Commission review zoning ordinance amendments at a public hearing and provides recommendation to council. There is nothing in the zoning law that addresses a CAC or similar kind of commission.

Ms. Heyden clarified that there is a CAC subcommittee called the neighborhood preservation subcommittee that is working on the larger issue of overcrowding of neighborhoods, and noted that the subcommittee is just not far along in their efforts to identify this as a potential solution. She explained that it has been difficult in terms of code enforcement to be effective in addressing some of the complaints that have been received regarding homes that are not operating as a single housing keeping unit. Staff felt the need to make this more of a priority because legal staff has advised that the definition of family is not consistent with state and federal law and needed to be updated. Staff also had another effort with a consultant that is preparing a report regarding impediments to fair housing and the consultant has also identified the definition as a problem with the zoning code.

Ms. Heyden explained that the subcommittee has not gotten far in their efforts to take ownership of the zoning amendments. Because it relates to the work they are doing, staff felt the need to bring them into the fold and let them know what staff was working on so they could be advised of how this might help the issues that have been identified through the subcommittee. In terms of timing, staff could certainly slip another meeting or another month, but staff does need to get the definition of family resolved right away because the definition is not legally enforced.

Regarding second family units, Ms. Heyden pointed out that she is not sure how much energy should be spent looking at it and recalled that the last time the amendments came forward, it was one of the most significant amendments and was prompted by a Bill that had been passed that required all cities amend their zoning ordinances to deal with second family units. Ms. Heyden pointed out that the Bill was quite specific and not sure if the can of worms should be opened.

Commissioner Galang asked staff to clarify the definition of a single-family dwelling. Ms. Pereira explained that it is defined as a detached building designed exclusively per occupancy by one family for living purposes and having only one kitchen.

Commissioner Galang asked what is the minimum number of bedrooms allowed for single-family and Ms. Pereira noted that the City does not regulate the number of bedrooms for single family.

Commissioner Galang asked what are the regulations if you are adding one bedroom in the backyard instead of in the car garage. Ms. Pereira responded that there are regulations in terms of lot coverage, setbacks, size of main residence, and there are other provisions of development standards in place that control the degree of an addition.

Commissioner Galang asked how the definition of boarding houses and dormitories is classified. Ms. Pereira responded that the definition of a boarding house is a building other than a hotel that provides meals and lodging for compensation. An example would be a bed and breakfast, sorority house, or paying rent and getting meals and room in exchange.

Vice Chair Lalwani asked if staff would be providing the Commission a copy of the PowerPoint presentation and Ms. Pereira responded, "Yes".

Vice Chair Lalwani asked how will staff find out if a resident has converted their garage. Ms. Pereira pointed out that there is additional language added to the parking section of single family that does not affect any garage conversions that were permitted or approved prior to the effective date of the ordinance. So if somebody came to the counter with a plan check to convert their garage, staff could not approve it from that date forward. In addition, if anybody had a garage conversion and it was witnessed in the field and it was not permitted, it could not be approved.

Vice Chair Lalwani pointed out that the current regulation states that an entire garage can be converted into living space and cannot contain a second family unit and asked staff if it is legal if there is a second family unit currently inside a garage. Ms. Pereira replied that she wasn't sure if the last ordinance amendment, which modified the second family units, if the limitations to be in the garage was part of the previous amendments or was added later.

Vice Chair Lalwani stated that this could be enforced only if someone reports this information to the City, because there is no way to know what people are doing.

Ms. Pereira noted that the City could find out either from complaints or as inspectors go out and perform routine inspections.

Vice Chair Lalwani commented that she was distributing Measure B fliers and saw a garage opening up and there was a living room in the garage. She commented that it seems that the owners are renting out the rest of the house and living in the garage.

Ms. Pereira commented that she is not confident that prior to the last amendment if it introduced the limitation of second family and single garage, or if it was permitted prior.

Ms. Heyden pointed out that staff receives complaints all the time through a hotline. Staff checks the address and checks permit records to see if the garage was permitted in any way, as either a second family unit or as expanding the bedrooms of the house. If it has been permitted than it has been legalized, if it hasn't been permitted then it is in violation. Ms. Heyden noted that sometimes it is pretty obvious as construction is going on and you see activity.

Commissioner Mohsin mentioned her concerns that if people are renting out three bedrooms in their house and they have four bedrooms it would cause parking problems in the neighborhood. Ms. Pereira agreed and noted that the City does not have the ability to regulate that type of living situation and is unable to control the number of cars and the number of people per house.

Commissioner Mohsin noted that CAC has been addressing the parking issue and asked if staff could address the issue as well.

Ms. Heyden explained that the neighborhood preservation subcommittee needs to continue with their efforts to find out the root cause of the problem. There could be families that are large, and if they have children of driving age, you can easily have four vehicles parked in your driveway or spilling over onto the street, so staff can not discriminate against how many people are living as a family and the impact that they have based on the number of vehicles that are necessary for the family.

Ms. Heyden explained that this is standard across the country in terms of number of parking for single-family dwellings and wouldn't think of increasing the ratio, however, she noted that this is something that will come back as the CAC subcommittee looks further into their study.

Mr. Lindsay explained that in relation to garage conversions, there is a double impact because you are losing parking spaces and increasing bedroom count, and what staff is suggesting is to add one additional parking space to the two minimum already required. So for an existing single family home, you have four parking spaces, traditionally, two covered and two uncovered, and in the current regulations, you can eliminate two of them, under the proposed regulations you could only eliminate one. So we are trying to make an attempt to increase the parking availability on the site so there is less impact on the street.

Commissioner Mohsin asked if it is safe to have half of the garage converted by having half a living space and the other half occupied by a car.

Mr. Lindsay explained that it would have to be separated by the building code because there are different occupancy requirements and there are actually separation walls that are needed because of the type of materials that are in a garage. You have to maintain a solid separation or fire wall between the two because of the materials that are typically associated with vehicles such as oils and gases.

Commissioner Mohsin asked what has been done with the observations that staff has picked up.

Ms. Heyden noted inspectors have canvassed the neighborhoods to observe how many garage conversions they've seen and have not taken this further yet to the next step to actually inventory them and compare them to records to see how many of them have been permitted. It's possible that the garages were permitted, but because the current language is difficult to enforce, staff wanted to sink their teeth into it first and then go forward with the efforts and take up other parts such as street sweeping and parking. This is a big issue and staff has already been working on it for six months and could probably take another year.

Commissioner Mohsin requested that if there is a PowerPoint presentation, that staff provide the Commission with copies to follow up with questions.

Commissioner Giordano commented that she wants to see information brought back such as matrixes and what other cities are doing, and understand how staff came up with conclusions. She would like to see staff's homework on the garage conversion issue because she is confused on how staff came up with only half of the garage converted. She also wants to see research done on why there is limitation to one bedroom in the secondary family units and look at expanding the bedroom count, and also how staff determined that only 1 bedroom is allowed on a 1200 square foot secondary dwelling unit.

Commissioner Garcia strongly supports delaying action until staff gets feedback from the CAC. He mentioned that the issue has been on the burner for the CAC and thinks that it is great for the citizens of Milpitas to have 3 opportunities to talk about this issue – Planning Commission, CAC, City Council-because it is a big change and input is needed.

Commissioner Galang asked if a permit is needed to start construction to convert half of a garage. Ms. Pereira responded that building permits are required for any interior modification to a home when it relates to new walls, electrical and plumbing, which would all be associated with a conversion of a garage.

Commissioner Galang asked why is staff allowing only half of a garage and asked what will be going on with the other half. Ms. Pereira pointed out that rather than allowing only half a garage to be converted staff is increasing the parking requirements for the single-family dwelling. Before it was two, now it's two but one must be covered. In doing so, you prevent the entire garage from being converted to additional rooms. Additional rooms add to more overcrowding and adds to more parking spaces, so that was staff's attempt to curb the whole garage conversions entirely. Staff had researched other cities, and the majority 4 out of 5, require those spaces to be enclosed. Staff thought that was a bit much and wasn't sure of the existing homes out there that would be unable to meet that and therefore be rendered non conforming, so staff considered the requirement of one of them to be covered, which is also consistent with the city of Campbell.

Attorney Faubion explained that the intent of staff in including the garage conversion language in the chart is more descriptive and not regulatory. It just indicates what the result would be if this regulation were adopted, and in all likelihood, people aren't going to convert half of a garage, and that is the point, that they aren't going to, and that is what the goal would be for these regulations, but if there is a requirement for one space to be covered in a garage, the more likely happening is the existing living space would be expanded into that rest of the garage, so you wouldn't have the garage doing anything but you would have the existing living space more than likely just expanding into that and more than likely subject to all of the regulations of building and fire walls.

After hearing all of the comments, Chair Nitafan concluded that additional information is necessary to adopt the ordinance.

Chair Nitafan opened the public hearing.

Rob Means, 1421 Yellowstone, commented that the large car problem presents more traffic, congestion, and parking problems. He felt there were too many people in one house. Mr. Means recalled that putting in an alternate transportation system that people can use so they don't have to drive their cars would be better than restricting affordable housing. Mr. Means explained that he knew a couple that were living in a 3-bedroom house and did not use all of the bedrooms. The couple tried renting out a room but it didn't work out, so what they did was section off the back end of the house where they had the master bedroom, plus they used more space from the other bedroom and the master bathroom and put in an exterior entrance and made that an exterior living room unit. The couple hesitated doing that because of rules and regulations, and the rule used to be that second units could be on a corner lot, and the couple wasn't on a corner lot. A former planning commissioner told the couple that as long as there is not a kitchen facility then they could escape the rules. So basically, the couple created affordable housing and did it under the radar. Mr. Means pointed out that under the proposed regulation, the same situation would no longer be legal.

William Connor, 1515 N. Milpitas Boulevard, noted that he was out walking for measure B, and noted that it was interesting because the paperwork had everyone's house number on it and the number of people that were living in the house. He also noted that there were about 4 or 5 cars in front of a house. His point was that he got the information from the county of registered voters and there is a registry of how many people do live in a house, but it is only those who are registered to vote. He questioned if are we losing votes because people do not want to register to identify that a house is over multiplied. He also mentioned his concerns that he drives through some of the neighborhoods at night and in some of these sections, it is bumper to bumper. At 6 a.m. in the morning the cars start to dissipate and at 11 p.m. the cars are collected.

Frank De Schmidt, member of the Chamber of Commerce and member of the economic development commission, noted that he receives the Planning Commission agenda and for the brief summary on Agenda Item no. 2, he did not see any information on garage conversions.

He commented that if staff wants public input and the garage conversions inadvertently got left off of the brief summary, the media wouldn't know about it if the media did a report and a story on this issues. He noted that his experience with ordinances and the quest for public input works this way. If you have the Commission offering a recommendation, maybe before that, a public hearing with the CAC or a town meeting. Then the Council gets it and they have a first reading, then you get a big crowd on the second reading. That's what his experience has been, everyone shows up at the last meeting. So he suggested that staff might want to do a separate mailing to the people that might be affected by this.

**Keep public hearing open
on Agenda Item No. 2**

Chair Nitafan noted that the public hearing will remain open since the item will be continued.

Commissioner Sandhu noted that he likes the idea that the public should be notified about this hearing because he doesn't think people know about the ordinance.

Commissioner Giordano didn't think it was logistically possible to send out notices to everyone in the city.

Mr. Lindsay noted that staff will create a display ad within *The Milpitas Post* that hits a larger audience than the legal ads do.

Motion to continue Agenda Item No. 2 (Impact Assessment No. EA2004-1 and Zone Text Amendment No. ZT2004-1 (Ordinance No. 38.763) to the March 24th meeting and for staff to get input from the CAC and bring back more information.

M/S: Giordano/Lalwani

AYES: 7

NOES: 0

**IX.
ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:22 p.m. to the next regular meeting of March 10, 2004.

Respectfully Submitted,

James Lindsay
Planning Commission
Secretary

Veronica Rodriguez
Recording Secretary